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09/937,902	02/27/2002	Michael David Boyd	JHMJ.00015	7123

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EXAMINER

AMIRI, NAHID

ART UNIT PAPER NUMBER

3635

DATE MAILED: 10/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/937,902

Applicant(s)

BOYD ET AL.

Examiner

Nahid Amiri

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 50-74 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 50-52, 65 and 67-69 is/are allowed.
- 6) ☒ Claim(s) 53-56, 58, 60-64, 66 and 71-73 is/are rejected.
- 7) ☒ Claim(s) 56, 57, 59-61, 70 and 72-74 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “**flange disposed in overlying relationship to the outer edge of the frame**”, **flexible hinges to linked the lid to hatches** must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims **54-57, 60-61 and 72** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant in **claim 54** claiming the flange disposed in abutting relationship to outer edge , and **Claim 55**, line 2, claiming the flange is attached to and disposed in overlying relationship to the outer edge. Therefore, it is not clear how could the flange be disposed in **abutting and overlying** relationship with same outer edge in same invention, **Claim 55**, line 2, applicant should clarify the phrase “**the same is attached to and disposed in overlying relationship to the outer edge**”. Which element applicant referring to by the phrase “**the same is attached**”. **Claim 56**, it is not clear the phrase “**a corresponding recess on said outer edge**” should clarifying the recess. **Claims 60 and 72**, applicant does not give use or function of the pivot surface with respect to the frame. **Claims 57,61** are written in a very confusing manner. They appear to set forth the structure in a rambling, disjointed manner that

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fails to particularly point out and distinctly set forth the invention, (e.g.) **claim 57**, the phrase “**including a central**” or “said rib being disposed between a peripheral edge of the flange and the central aperture and **being arrange and located such that the same does not project above a level down to which a floor covering** on the floor around the frame would crush under normal usage loads”. **Claim 61**, the phrase “the lid **has underside** that is defines a **bearing surface** which is adapted to slidably engage on the pivot surface to allow the **lid to bear on and pivot about the pivot surface**”, it is not clear and confusing what applicant trying to claim. **Claim 57** recites the limitation “**central aperture**” which there is insufficient antecedent basis for this limitation in the claim. Therefore, the examiner will examining the claims as best understood.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 53-55, 58, 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 4,209,660 Flanchbarth et al.

In regard to claim 53: Flanchbarth discloses the claimed invention FIG. 2, the frame 90 having a tapered, outwardly extending flange 91, Flanchbarth does not disclose the thickness of flange. It would have been an obvious matter of design choice to have tapered flange with specific thickness for desirable location, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

In regard to claims 54-55: Flanchbarth discloses the claimed invention FIG.1, the frame 90 having an outer edge which abutting relationship with a tapered flange 91, Flanchbarth does

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not disclose the tapered flange framed from a soft not structural material. It would have been obvious to one of ordinary skill in the art at the time of invention was made to formed the tapered flange with soft material such as polymeric material in order to prevent the utility box against any damages from moister or any water penetration, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as matter of obvious design choice. Ir re Leshin, 125 USPQ 416.

In regard to claims 58, 71: Flanchbarth discloses the claimed invention FIGS. 1-3, column 3, line 60-68, having a floor segmented and frame 4 with a lid 73, Flanchbarth does not disclose a frame and lid having load bearing capacities are not less than the floor segment. It would have been obvious to one of ordinary skill in the art since floors formed from concrete therefore it carries more load that the frame and lid which is made from polymeric material.

Claim 64 is rejected under 35 U.S.C. 103(a) as being unpatentable over US patent No. 4,222,061 Stires, III.

In regard to claim 63: Stires discloses the claimed invention FIG. 1, column 3, line 60-63 char recorder 10 having a lid 22 with panel formed from high impact resist durable plastic material column 2, line 41-43, lid 22 include a openable hatch, Stires does not disclose the panel formed from rigid and overmoulding formed from a flexible polymer. It would have been obvious to one of ordinary skill in the art at the time of invention was made to formed a lid panel from polymer material such as plastic in order to create light weight and low cost panel.

In regard to claim 64: Stires discloses the claimed invention FIG. 1, column 3, line 60-63 char recorder 10 having a lid 22 formed from high impact resist durable plastic material which include a openable hatch.

In regard to claim 73: Stires discloses the claimed invention except the barrier is a floor or desktop or wall. It would have been obvious to one of ordinary skill in the art at the time of invention was made to provide a floor or desktop or wall as a barrier in order to install the box in stable position and be able to access the box.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 62 is rejected under 35 U.S.C. 102(b) as being anticipated by US patent No. 4,222,061 Stires, III.

In regard to claim 62: Stires discloses the claimed invention 1, column 2, line 39-53, the chart recorder 10 having a lid 22 including a latch (locking bracket) 34, releasably securing the lid in a closed condition and having a hatch 44 pivotally connected to a panel of the lid 22.

Claim 66 is rejected under 35 U.S.C. 102(b) as being anticipated by US patent No. 5,713,167 Durham et al.

In regard to claim 66: Duham discloses the claimed invention FIG. 2, column 5, line 6-10, rectangular frame 10 defining a closes channel 18 extending continuously along the four sides of the aperture.

***Allowable Subject Matter***

**Claims 56 and 72** appears to drawn allowable subject matter and would be allowable in overcome 112 problem are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

It appears that the claims **57, 59-61** might be drawn to allowable subject matter but final determination will not be made on allowability until the claims are written in a clear and concise manner and overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this

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Office action and to include all of the limitations of the base claim and any intervening claims.

**Claims 57, 59, lid having upstanding rib is disposed between the peripheral of the flange and the central aperture.**

**Claims 50-52, 65, 67-69** are allowable.

The prior art fail to provided the following applicant's claim invention of **claims 50-52**, access floor having a frame having a flange outwardly being disposed between the floor covering and upper surface of the floor. **Claim 65** frame having a **upstanding a rib extend around the aperture with chamfered edge and lid with chamfered edge formed from flexible material.** **Claims 67-69**, having a **two or more latch supporting pillars** with curved inner face.

**Claims 70, 74** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art fail to provided the following applicant's claim invention of **claim 70**, **frame having upstanding rib extending between a peripheral edge of the flange and central aperture**, **claims 74**, a lid having a **latch releasably securing the lid** in a closed condition, **claim 63** having a panel formed from a rigid structural material and overmoulding formed from a flexible material plastic and having a openable hatch 32

### ***Response to Arguments***

Applicant's arguments with respect to claims 50-56, 62-65 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 6,632,999 B1 Sempliner et al.

US Patent No. 4,721,476 Zeiff et al.

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US patent No. 5,010,211      Bartee

US Patent No. 5,257,487      Bantz et al.


US Patent No. 5,571,993      Jones et al.

US patent No. 6,179,634 B1      Hull et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nahid Amiri whose telephone number is (703) 305-4241 and Fax number is 703-872-9326. The examiner can normally be reached on Monday-Friday from 8:00-5:30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Carl Friedman can be reached at (703) 308-0839.

na 

October 13, 2003

  
Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600